IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1127 OF 2004
(For condonation of delay)
WITH
CRIMINAL APPEAL NO.325 OF 2004

The State of Maharashtra ...Appellant.

V/s

Suresh Krishna Patil
Age 41 yrs, R/o. Biranje
Male, Kasaba Bavada, Kolhapur. ...Respondent.

Mr. B.H. Mehta, APP for the appellant - State.

Mr. S.D. Dharmadhikari for the respondent.

CORAM: V.M.KANADE,J.
DATE: 2nd December, 2004

P.C.

1. For the reasons stated in the application for condonation of delay, delay is condoned.

2. Heard the learned APP appearing on behalf of the appellant - State and the learned Counsel for the respondent.

3. This appeal has been filed by the State challenging the Judgment and Order passed by the Special Judge, Kolhapur in Special Case No.12 of 2000. By the said Judgment and Order dated 20/9/2003, the Trial Court acquitted the accused of the offence with which he was charged under section 7, 13(1)(d) read

with section 13(2) of the Prevention of Corruption Act.

4. Complainant - Dipak Mane had made an application to the M.S.E.B. Department for the purpose of getting connection of 5 H.P. electric connection. He was told to obtain the No Objection Certificate from the Maharashtra Pollution Control Board. Accordingly, he went to the Office and met the accused. He was informed that the accused was working as a peon. According to the complainant, he was asked to fillup certain documents and an amount of Rs 50/- was paid for which the official receipt was given. He was asked to bring Demand Draft of Rs 200/- in the name of Maharashtra Pollution Control Board and an additional amount of Rs 500/-. When the complainant asked the accused as to why the said additional amount was to be paid, the accused informed him that it was towards tea expenses and also for getting the work done from the concerned clerk. The said amount was reduced to Rs 300/-. Complainant, thereafter, lodged a complaint with the Anti-corruption Bureau. Pre-trap panchanama was made and, thereafter, raid was conducted. The accused took the form from the complainant, brought the No Objection Certificate and handed over the papers to the complainant. Complainant, thereafter,

gave marked currency notes to the accused who asked him to put the currency notes in an envelope. On the pre-arranged signal being given by the complainant, the raiding party took search of the accused and the marked currency notes were found in the envelope.

5. The Trial Court acquitted the accused. Against the said judgment and Order, State has preferred the present appeal.

6. The learned APP appearing on behalf of the State has taken me through the Judgment and Order of the Trial Court as also the evidence of the complainant - Dipak Mane and the other witnesses. He has submitted that the accused was caught red-handed and that the Trial Court had misdirected itself in coming to the conclusion that since the accused did not have an authority to issue No Objection Certificate, it was difficult to believe the prosecution case.

7. After having gone through the evidence on record, I am of the view that the prosecution has failed to establish its case beyond the reasonable doubt. It is an admitted position that the accused was working as a peon in the Office of the Maharashtra Pollution Control Board and he did not have an authority to

issue the No Objection Certificate. The said authority was vested with Mr. Kulkarni. Therefore, it is inconceivable that the accused would demand an amount for the purpose of getting the work done which he himself was not authorized to do. Mr. Kulkarni who was the concerned authority empowered to issue the Certificate has not supported the prosecution. In fact, complainant has not stated that the accused demanded money for movement of files but had demanded it towards tea expenses. The amount also was paid in the presence of number of persons. It is, therefore, difficult to accept the prosecution case.

8. After having perused the judgment and order of the Trial Court, I am of the view that the findings recorded by the Trial Court are not unreasonable or perverse. Under the circumstances, I do not see any reason to interfere with the said judgment and order passed by the Trial Court. Leave is refused. Appeal is dismissed.

V.M. KANADE, J.